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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.03.2024

PRONOUNCED ON : .08.2024

CORAM:

THE HON'BLE MR.JUSTICE A.A.NAKKIRAN

**A. No. 6526 of 2023
in
T.O.S. No. 43 of 2013**

This application has been filed seeking to appoint an advocate commissioner to receive the original of Exhibit P1 Will dated 21.10.2007 and send it to an handwriting/forensic expert to give report as to the printed content in the Will and signature of the testator is simultaneous or written at different times and file the same in Court with the report and pass orders accordingly.

2.The learned counsel for the petitioner submits that the alleged will has been created by typing the contents in the signed letterhead much earlier to 21.10.2007 and the applicant herein confirms that the contents of the Will is typed after the death of her father. Hence, the suspicious



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circumstances surrounding the alleged execution of the alleged Will is to be tested by forensic department by examining the difference in written version and signature of the alleged Will. Unless the signature and typed contents of the Will both are tested as to the time of its typing and signature. Thus, he seeks the relief as prayed for.

3.Per contra, the learned counsel for the respondent submits that it is settled law that the handwriting expert will be appointed only to compare the signature with the admitted signature to find out whether the disputed signature is different from the admitted signature. The claim of the petitioner is untenable as there is no practice or procedure to appoint handwriting expert whether the printed content of Ex. P1 (Will dated 21.10.2007) and the signature of the testator are written and signed at different times. This cannot be find out by the handwriting expert and even the age of the link cannot be decided by the handwriting expert. But, the respondent has no objection to compare the signature of the Testator in the will with any other document admitted by the applicant to prove the genuineness of the will. In this regard, he relied up the Judgment of the



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Hon'ble Supreme Court reported in 2008 (6) SCR 959 in the case of

“T.Nagappa Vs Y.R.Muralidhar. Hence, the said application is liable to be dismissed and not maintainable.

4. Heard both sides and perused the material available on records.

5. On perusal of the records, it is seen that even though applicant seeks to appoint Forensic expert whether the typed content of Ex. P1 (Will dated 21.10.2007) and the signature of the testator are made at contemporary period or at different period, he failed to show that there exists any mechanism or scientific test to ascertain the age of the typed contents/Writing on the document.

6. In view of the above, relying upon the Judgment reported in 2010(1) CTC 424, this Court is of the view that at present, there is no mechanism or any expert available to find out the age of the contents typed in the document. Hence, this Court is not inclined to allow this application.



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A.A. NAKKIRAN, J.

Lbm

7. In the result, this application is dismissed. No costs.

.08.2024.

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4/4